

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

JOHN CULLEN,

Plaintiff,

v.

CITIBANK, N.A., UNITED STATES
DEPARTMENT OF LABOR, and UNITED
STATES DEPARTMENT OF JUSTICE

Defendants.

Case No. 18-cv-6369 (VLB)

Judge Vincent L. Briccetti

**MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANT CITIBANK N.A.'S MOTION TO DISMISS**

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I. INTRODUCTION

Plaintiff John Cullen (“Plaintiff” or “Cullen”) is a former employee of Defendant Citibank, N.A. (“Citibank”) with a long litigation history.

In 2008, Mr. Cullen filed a series of lawsuits against Citibank. In those lawsuits, Mr. Cullen alleged claims that his employment was terminated in 2007 because of his age, and in violation of the Sarbanes Oxley Act of 2002 and Citibank policies. Mr. Cullen also alleged claims of defamation, an entitlement to additional pension benefits, and that his Separation Agreement (signed in 2007) was procured through duress. *See Cullen and Juliano v. Citibank*, Nos. 08-CV-10317 and 08-CV-10318.

This Court, Karas, J., dismissed Mr. Cullen’s claims for various reasons set forth in the Court’s opinions. *See Order dated Sept. 30, 2010, Cullen and Juliano v. Citibank*, Nos. 08-CV-10317 and 08-CV-10318 (Dkt. 35); Order dated September 30, 2011 (Dkt. 46); Judgment dated Sept. 30, 2011 (Dkt. 47). Copies of these documents are attached as Exhibits 1-3.¹ In its September 30, 2011 Order, the Court noted that Mr. Cullen “has been personally attacking Jeremy Blumenfeld, Esq., Defendant’s lead counsel in this action” and warned him against sending harassing emails to Mr. Blumenfeld. *See Exhibit 2*, at p. 4 n.2.

Although Mr. Cullen appealed to the Second Circuit, Mr. Cullen’s appeal was dismissed in 2013. *See Cullen and Juliano v. Citibank*, No. 13-1833 (Second Circuit); *Cullen and Juliano v. Citibank*, Nos. 08-CV-10317 and 08-CV-10318 (Dkt. 53) (Mandate).

In 2012, while his Second Circuit appeal was pending, Mr. Cullen filed an administrative claim with the U.S. Department of Labor. *See Cullen v. CitiGroup*, No. 2012-SOX-00023,

¹ All exhibits are attached to the Declaration of Jeremy P. Blumenfeld. All citations herein will be made directly to the exhibits as they are attached to the Declaration.

Decision and Order, a copy of which is attached as Exhibit 4. That claim was dismissed by the Administrative Law Judge. *See id.*

In 2014 and 2015, Mr. Cullen filed two other complaints against Citibank in state court, both of which were dismissed. *See* Decision and Order dated 4/21/15, *Cullen v. Citibank*, No. 15030202, a copy of which is attached as Exhibit 5. In entering the Order dismissing the second of those lawsuits, the state court found that “it is this Court[’s] determination that the filing of Small Claims actions in this Court against the defendant, CITIBANK, N.A., ***is being done for purposes of harassment and not under color of right.***” *See id.* at 2 (emphasis added).

Outside the judicial system, Mr. Cullen’s pattern of attacks continued.² For example:

- Mr. Cullen sent an email on September 17, 2014 accusing Citibank of “treason” and saying that he “plans to visit our [Morgan Lewis’s] 1701 Market Street office” in Philadelphia on September 29, 2014. *See* Exhibit 6. When undersigned counsel responded that Mr. Cullen should not attempt to gain access to our offices, Mr. Cullen sent another email, this time attaching photos of himself at the address of Morgan Lewis’s office in New York City. *See* Exhibit 7.

- Similarly, on December 18, 2017, Mr. Cullen sent an email to undersigned counsel’s administrative assistant (copying numerous others), stating, among other things, that “your name is all over documents showing you helping your boss JEREMY ‘EARS’ BLUMENFELD use PRESIDENT GEORGE W. BUSH appointee FEDERAL DISTRICT

² Citibank understands that the Court generally cannot consider matters outside the pleadings when evaluating whether Mr. Cullen’s complaint states a plausible claim for relief. The Court can, however, take judicial notice of Mr. Cullen’s other court proceedings. These emails, moreover, are not being offered to address any facts alleged in the Complaint. Rather, they are offered so the Court can see Mr. Cullen’s pattern of behavior, which is relevant in the event Mr. Cullen seeks to prolong or delay these proceedings.

JUDGE KENNETH M. KARAS to put ILLEGAL FEDERAL GAGS” on Mr. Cullen. *See* Exhibit 8.

- And on July 2, 2018, Mr. Cullen sent an email to another federal court which he concluded with “I BELIEVE there is a DEEP STATE and its LEADERS & LAWYERS, like Jeremy Paul Blumenfeld, Leslie R. Caldwell, Preet Bharara, Mark Misorek, SHOULD ROT IN PRISON!!!” *See* Exhibit 9.

* * *

Plaintiff’s current Complaint is, unfortunately, part of this same pattern. Plaintiff names as defendants Citibank, as well as the United States Department of Justice and United States Department of Labor. Plaintiff alleges that Citibank improperly sent files belonging to Hillary Clinton to India just prior to the September 11, 2001 attacks and that undersigned counsel “colluded” with the then-U.S. Attorney for the Southern District of New York and the Regional Director for the U.S. Department of Labor to impact the 2016 presidential election. Plaintiff asks for millions of dollars for himself and others, an apology from Judge Karas, and for certain individuals to be incarcerated. As such, and even considering the latitude sometimes afforded *pro se* litigants, Citibank respectfully submits that Plaintiff’s Complaint fails as a matter of law and should be dismissed.

II. FACTUAL BACKGROUND

Mr. Cullen alleges that (a) Citibank improperly sent files belonging to Hillary Clinton to India just prior to the September 11, 2001 attacks (at p. 10³); and (b) undersigned counsel

³ Because the Complaint does not have numbered paragraphs, this letter cites to the “pleading title” page by its page number.

“colluded” with the then-U.S. Attorney for the Southern District of New York and the Regional Director for the U.S. Department of Labor to impact the 2016 presidential election (at p. 4).

Mr. Cullen alleges that the events giving rise to his claims occurred in “White Plains Federal District Court, 7:08 CV 10317 (MRK) (GAY) and 7:08 CV 10318 (MRK) (GAY)” and that the date and approximate of time of these events was “April 17, 2018, at 10:45 AM, when the DOJ illegally took 134 pages of my INTELLECTUAL PROPERTY the 4/16/18 draft of my REPORT to CONGRESS: Hillary’s CITI GROUP, Donald’s “EARS” BLUMENFELD, Whistleblowers Veronica & me” (at p. 11).

In his Complaint, Mr. Cullen asks for an apology from Judge Karas, millions of dollars in damages for himself and others, and suggests that certain individuals should be incarcerated (at p. 9). Mr. Cullen also alleges that:

The U.S. CONSTITUTION permits me, as the accused in a \$ multi-million matter involving AMERICA’S HOMELAND SECURITY, and DEEP STATE meddling in the 2016 election by MORGAN LEWIS & BOCKIUS with the DOJ, DOL & OSHA the RIGHT to a PUBLIC FEDERAL TRIAL BY JURY.

(*Id.* at p. 7)

III. ARGUMENT

Mr. Cullen’s current Complaint fails to state any claim against Citibank upon which relief can be granted. Instead, the Complaint merely continues Mr. Cullen’s attacks against Citibank and its counsel, this time for allegedly interfering in the 2016 presidential election and sending Hillary Clinton’s documents to India before the September 11, 2001 attacks. As such, Mr. Cullen’s complaint should be dismissed for failure to state a claim. *See also Gallop v. Cheney*, 642 F.3d 364, 368 (2d Cir. 2011) (“A court may dismiss a claim as factually frivolous if the sufficiently well-pleaded facts are clearly baseless—that is, if they are fanciful, fantastic, or delusional.”) (internal quotation marks omitted) (quoting *Denton v. Hernandez*, 504 U.S. 25, 32-

33 (1992)); *Papadopoulos v. United States*, No. 08-cv-11256, 2010 WL 3155035, at *6-7 (S.D.N.Y. June 9, 2010) (“Conspiracy theories have been dismissed as delusional, frivolous, or simply lacking merit.”) ((collecting cases)); *Haque v. Bush*, 17-cv-6043, 2017 WL 8780797, at *2 (E.D.N.Y. Nov. 16, 2017) (“Plaintiff[’]s pleadings in this case warrant dismissal as factually frivolous.”).⁴

IV. CONCLUSION

For the foregoing reasons, Citibank respectfully requests that Plaintiff’s Complaint against it be dismissed with prejudice.

Date: August 6, 2018

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Citibank submits that any claims that Mr. Cullen might try to craft likely would fail as a matter of law, be time-barred (since Mr. Cullen ceased working for Citibank over ten years ago) or be barred by collateral estoppel and/or res judicata based on the orders dismissing the prior actions filed by Mr. Cullen against Citibank. Of course, the precise contours of those issues would depend on the specific claim and facts alleged. As such, the Court need not reach those issues at this time.

CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2018 a true and correct copy of the foregoing Defendant Citibank's Motion to Dismiss, as well as the Memorandum of Law in Support and the Declaration of Jeremy P. Blumenfeld, together with all exhibits, were served via the Court's ECF filing system and/or by U.S. Mail to the following:

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s/ Jeremy P. Blumenfeld
Jeremy P. Blumenfeld

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.2

I hereby certify that, in serving *pro se* Plaintiff John Cullen with the Memorandum of Law, the undersigned complied with Local Rule 7.2 by providing "copies of cases and other authorities cited therein that are unpublished or reported exclusively on computerized databases."

s/ Jeremy P. Blumenfeld
Jeremy P. Blumenfeld